

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

DONALD COOK,)	
Plaintiff,)	Civil Action No. 7:08cv00571
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
SUPERINTENDENT, <u>et al.</u> ,)	By: Hon. Jackson L. Kiser
Defendants.)	Senior United States District Judge

Plaintiff Donald Cook, a Virginia inmate proceeding pro se, brings this action pursuant to 42 U.S.C. § 1983. Cook has also requested to proceed in forma pauperis.

According to court records, Cook has filed at least three civil actions in a court of the United States that were dismissed on the grounds that they were frivolous, malicious, or failed to state a claim.¹ Therefore, Cook may not proceed with this action unless he either pays the \$350.00 filing fee or shows that he is “under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

As Cook has neither prepaid the filing fee nor demonstrated that he is “under imminent danger of serious physical injury,”² I dismiss his complaint without prejudice.³

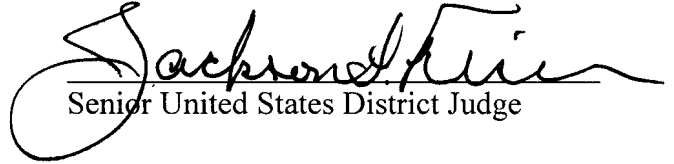
¹ See Cook v. Cook-Robinson, Civil Action No. 2:97cv00360 (E.D. Va. Apr. 29, 1997) (dismissed as frivolous); Cook v. Robinson-Cook, Civil Action No. 2:97cv00436 (E.D. Va. May 9, 1997) (dismissed as frivolous); Cook v. Flicek, et al., Civil Action No. 4:03cv00145 (E.D. Va. Apr. 27, 2004) (dismissed for failure to state a claim). I note that Cook argues that the first two cases were not filed by him and that he believes that perhaps his wife, Kerri Cook-Robinson, her family, and her “sugar daddy” filed these cases in 1997 as a means of “setting [him] up.” However, Cook concedes that the defendant in the first two cases is in fact his wife and I find it incredible that Ms. Robinson-Cook would attempt to set her husband up by filing two frivolous actions against herself on his behalf. Cook also argues that it “was not [his] fault” that his claim against Flicek, his parole officer, did not state a claim. However, he concedes that he did in fact bring this action and that it was dismissed for failure to state a claim, which is sufficient to qualify him under § 1915(g).

² Cook alleges that in 2005 the guards poisoned his digestive system, which has now caused him a “super unnormal [sic] amount of cholesterol.” He further alleges that he is receiving inadequate medical treatment, but he concedes that he has seen the medical personnel on numerous occasions and that he has had multiple x-rays taken, an EKG administered, and his blood pressure taken. The court finds that Cook’s allegations fail to demonstrate that he is under imminent danger of serious physical harm.

³ The court notes that Cook may re-file this action if he can provide some credible evidence in support of his claim that two of the actions listed in footnote 1 were in fact not filed by him.

The Clerk is directed to send a certified copy of this Memorandum Opinion and the accompanying Order to the plaintiff.

ENTER: This 18th day of November, 2008.


Senior United States District Judge